



January 18, 2002

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## SENATE BILL No. 92

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DIGEST OF SB 92 (Updated January 16, 2002 5:24 PM - DI 105)

**Citations Affected:** IC 34-10.

**Synopsis:** Representation of indigents in civil actions. Allows a court to appoint an attorney to represent an indigent person involved in a civil action at no expense to the indigent person under certain circumstances. Requires the appointing court to pay the reasonable attorney's fees and litigation expenses incurred by the attorney.

**Effective:** Upon passage.

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### Lanane, Ford, Broden

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January 7, 2002, read first time and referred to Committee on Judiciary.  
January 17, 2002, reported favorably — Do Pass.

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SB 92—LS 6175/DI 69+



January 18, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## SENATE BILL No. 92

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A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 34-10-1-2 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a) This section**  
3       **may not be construed to prohibit a court from participating in a**  
4       **pro bono legal services program or other program that provides**  
5       **legal services to litigants:**

6               **(1) without charge; or**

7               **(2) at a reduced fee.**

8       **(b) If the court is satisfied that a person who makes an application**  
9       **described in section 1 of this chapter does not have sufficient means to**  
10       **prosecute or defend the action, the court: ~~shall~~:**

11               **(1) shall** admit the applicant to prosecute or defend as an indigent  
12               person; and

13               **(2) may, under exceptional circumstances,** assign an attorney  
14               to defend or prosecute the cause.

15       **(c) The factors that a court may consider under subsection**  
16       **(b)(2) include the following:**

17               **(1) The likelihood of the applicant prevailing on the merits of**

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the applicant's claim or defense.

(2) The applicant's ability to investigate and present the applicant's claims or defenses without an attorney given the type and complexity of the facts and legal issues in the action.

(d) The court shall deny an application made under section 1 of this chapter if the court determines any of the following:

(1) The applicant failed to make a diligent effort to obtain an attorney before filing the application.

(2) The applicant is unlikely to prevail on the applicant's claim or defense.

(e) All officers required to prosecute or defend the action shall do their duty in the case without taking any fee or reward from the indigent person.

(f) The reasonable attorney's fees and expenses of an attorney appointed to represent an applicant under section 1 of this chapter shall be paid from the money appropriated to the court:

(1) appointing the attorney, if the action was not transferred to another county; or

(2) from which the action was transferred, if the action was transferred to another county.

SECTION 2. An emergency is declared for this act.

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SENATE MOTION

Mr. President: I move that Senator Ford be added as second author  
and Senator Broden be added as coauthor of Senate Bill 92.

LANANE

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 92, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 92 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 6, Nays 2.

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